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### The Indian Affairs Working Group: A Progress Report [outline]

Dave Frohnmayer

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"The Indian Affairs Working Group:  
A Progress Report"

Outline of Remarks  
before the  
Conference on  
NATURAL RESOURCE DEVELOPMENT IN INDIAN COUNTRY

by

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Attorney General of Oregon  
and President, National Association  
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Boulder, Colorado  
June 8, 1988

## I. ORIGINS

- A. Decades of unresolved intergovernmental problems: a brief review.
- B. Agenda of issues capable of resolution.
- C. Lack of focal point for development of priorities.
- D. NAAG discussions with USDOJ.
  - 1. The "window of opportunity."
  - 2. Meese luncheon with NAAG (December 1987).

## II. RESPONSE

- A. Meese invitation to NAAG.
  - 1. Issue of NAAG "representation" and state sovereignty.
  - 2. Whose agenda?
- B. Preliminary meeting in San Francisco (February 1988).
  - 1. Canvas of issues:
    - (a) Commonality of interest.
    - (b) Capacity to be resolved.
    - (c) Broad consensus: negotiated resolution preferable to costs and uncertainties of litigation.
  - 2. Question of form of tribal involvement:
    - (a) Who?
    - (b) How?
    - (c) Format of process?

C. Inquiries of tribal representatives: "lawyer to lawyer."

1. States know they cannot dictate who attends, and do not always know how or when to deal with different Native American organizations and coalitions. Temporary resolution: request of John Echohawk, Esq. to invite first meeting attendees.
2. "Process" needs dictate some limits:
  - (a) Large enough to be representative.
  - (b) Small enough to allow meaningful dialogue.
  - (c) Recognition of sovereignty of each participant.
  - (d) Focused enough to permit rapid resolution of issues.
  - (e) Structured enough to allow emergence of common interests rather than polarized positions.

D. NAAG/Tribal meeting and aftermath.

1. Washington, D.C. luncheon (March 14, 1988):
  - (a) Statement of tribal concerns.
    1. Who called?
    2. What purposes?
    3. What agenda?
    4. What formula or mechanism for tribal representation?
  - (b) Statement of state Attorney General "issue areas."
    1. Environmental law
    2. ICRA
    3. Gaming
    4. Taxation
    5. Water law

### C. Conclusions.

1. Develop subgroups of states and tribal representatives to meet on specific issues.
2. Avoid, where possible, the attempt to define issues in ways which attack, or are perceived to attack legal understandings of tribal sovereignty.
3. Develop inventory of:
  - (a) State-tribal issues which are pending; and
  - (b) State-tribal "success stories."
4. Resolve, or further refine question of IAWG membership.

### D. Aftermath.

1. March 15, 1988 meeting at USDOJ:
  - (a) Unanimous recommendation of inclusion of tribal representatives by state Attorneys General.
  - (b) Reports of progress to date.
2. Follow-up.
  - (a) Meese agreement.
  - (b) Appointment and scheduling of subgroup meetings.
  - (c) Western Attorneys General meeting with Senate Select Committee and western Senators (March 15, 1988).

## III. THE FUTURE

- A. USDOJ/federal involvement.
- B. CWAG -- Sedona, Arizona (July 1988)
- C. Focus of agenda.
- D. The "representation" and "invitation" question.